RESEARCH HIGHLIGHTS

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MANDATORY HOME INSPECTIONS ON RESALE HOMES IN ONTARIO

Introduction

Since the mid-1970s, consumer demand for home inspection services has grown in Ontario. Home inspectors and related industry and consumer groups consider a home inspection to be a worthwhile part of the resale process for the following key reasons:

- It provides the buyer with a list of repairs including time frames and other recommendations.
- It discloses conditions not readily apparent or understood by a non-technical buyer, or that may have been misrepresented.
- It reduces the liability of the realtor and meets the realtor's need to disclose material facts and act in their client's best interests.

Although inspections may not find all problems, they provide a reasonable degree of consumer protection at a reasonable cost. The home inspection process also encourages upgrading of Canada's housing stock to meet current requirements and expectations concerning health, safety, maintenance and use.

However, the voluntary inspection process has been ineffectual in addressing the needs of many homeowners. An increasing number of resale homes are inspected, but not by qualified or certified home inspectors. To better understand the home inspection industry in Ontario and options for improvement, a 2002 research project, funded by Canada Mortgage and Housing Corporation's External Research Program, looked at the possibility of having mandatory, rather than voluntary, home inspections.

Those surveyed included Ontario government representatives, the home inspection industry (private and public), insurance companies, the real estate industry, financial lending institutions, CMHC and various consumer associations.

Mandatory inspections

Timing

Closely linked to the question of mandatory home inspections is the timing of an inspection: should it be prior to listing, or as part of a conditional offer? Approximately 90 per cent of respondents agreed that an inspection should be conducted as early in the selling process as possible, so that findings do not cause negotiations to be changed.

Pre-listing home inspections could benefit sellers, giving them the option of remedying any major problems or adjusting their price. Inspections at this point do not face the same time constraints as those tied to conditional offers. Financial, government and consumer respondents saw pre-listing inspections as having merit for the vendor. Consistency of service would require properly trained inspectors and minimum standards. Realtors saw pre-listing inspections as contributing to mandatory seller disclosure and reducing the risk of future disputes. Home inspections are not meant to be used as tools for re-negotiation, but this is now often the case. Pre-listing inspections would avoid this problem.

Some thought this approach, though, would result in inspectors being less accountable to the buyer and increase liability. A pre-listing inspection could also be a disadvantage to new and uninformed buyers, who would miss the benefit of going through the inspection process.

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Level of inspection

All respondents agreed that non-destructive inspections provide an appropriate level of service. Vendors do not want their homes damaged, and the cost of destructive testing could be prohibitive. A team of specialists conducting exhaustive analysis and testing may turn up more problems, but the dramatically increased cost may well make the investment a poor one. While technically exhaustive inspections should be the exception and not required for an average inspection, there may be merit in having a second opinion or using a specialist inspector.

A burden for some

Some respondents thought that mandatory inspections would make older houses harder to sell, causing hardship for elderly people, low-income homeowners and those handling estate sales. Others were concerned that some buyers would find the cost of an inspection burdensome, even if the intention was to protect them. It would not make sense to have mandatory inspections for homes purchased for demolition or major renovation, and new homes covered by a warranty program may not need further inspection for some years.

Implications for the industry

Almost all respondents agreed that if mandatory inspections were imposed in Ontario today, there would be too few qualified home inspectors to handle the increased volume. Vendors would be disadvantaged if there were not enough registered inspectors to conduct mandatory inspections, as this would result in delaying sales.

Changes in the market over time will make it difficult to maintain a sufficient level of qualified inspectors. During a hectic market, realtors and buyers often expect next-day service, which drives up demand for more inspectors. When the market is slow, fewer inspectors will survive.

Many respondents were mixed in their reactions as to whether mandatory inspections could in fact be imposed. Many thought that inspection services are not readily available throughout the province, especially in rural and remote areas. Standardized training, testing and qualifications for all home inspectors would have to be legislated. Industry self-regulation would produce better-qualified and certified home inspectors, although there would still be those offering services with minimal qualifications.

Training and the scope of work are important issues for the industry. The qualifying criteria for someone to become a certified or registered home inspector determines the technical skill levels required. Narrowing the inspector's focus would be seen as a step backwards. Broadening the focus would add to an already wide knowledge base that professional inspectors must maintain. Other professions provide technical advice to real estate buyers and can augment the work done by inspectors. These include architects, technical designers, engineers, contractors, builders and other building specialists.

Legal implications

The major legal implication of mandatory home inspections is that all real estate contracts would be conditional on a property meeting an independent third-party inspection or fitness standard. This leads to the need for additional mechanisms to sell properties failing to meet the standard. A set of mandatory retroactive standards for defining acceptable conditions would be required. However, there have been successful legal challenges to such retroactive requirements, on the basis that the original installation was approved under a previous regulation or code requirement.

Changes would be needed to a number of provincial statutes and regulations related to real estate transactions. Mandatory home inspections would require an appeal process for property owners who dispute the results of an inspection. Home inspectors' liability would have to be expanded to cover all parties, not just buyers, who might reasonably rely on an inspection report. Furthermore, mandatory home inspections would have no statue of limitations, a major concern for the industry.

The confidential nature of the service dictates that home inspectors should have only one client. Issuing one report with multiple clients would create a hornet's nest of inconsistencies, increase liability and pose a host of legal complications.

Insurance and financial industry positions

The insurance industry in Ontario expressed minimal interest in mandatory home inspections. The industry's main interest is when a home has multiple claims. Once a problem has been identified and corrected, it reduces liability for future claims.

Likewise, the financial industry was marginally interested in mandatory home inspections. The condition and quality of a home can be of sufficient issue to deter lending on tired real estate. This could lead to post-closing costs, such as renovation and repair, and may affect a homeowner's ability to make mortgage payments.

Political climate

If regulations were to be mandatory, most industry respondents agreed that the provincial government should be the driving force. However, unless political interests change significantly, there is no momentum for this to happen. Home inspections are a low government priority compared to such issues as water quality. In an era of deregulation, working to improve voluntary inspections also makes more sense.

> "If the concern is competency of inspectors, it should be addressed by mandatory qualifications, not mandatory inspections. If the concern is the condition of housing, let us first agree on the acceptable standard, then we can implement a voluntary program, and if there is a demonstrated need that justifies the cost, a mandatory program."
>
> — Respondent

Potential for improvement

Consumer representatives believed that voluntary inspections will continue to benefit purchasers, but there need to be changes. The industry must self-regulate and set standards so that everyone has access to the same level of service. The industry must demonstrate that inspections are a worthwhile part of real estate transactions.

Respondents from the real estate industry had mixed reactions regarding the quality of existing inspection services. Some reported difficulty in finding inspectors who know what they are doing, and there are those whose findings are causing unnecessary alarm among purchasers.

Inspection reports vary in their level of detail, with some providing insufficient information while others are far too detailed and complicated, resulting in confusion and even alarm for the purchaser. More standardized reporting would be helpful, and inspectors should ensure they discuss their reports with their clients.

Many respondents suggested that home inspectors and other stakeholders in Ontario hold meetings to discuss home inspections. They should discuss the issue as a whole and not focus solely on mandatory inspections or presume that is the route to be taken.

Conclusions

Responses indicate that all interest groups believe voluntary home inspections should be the norm. There is no perceived real benefit to the inspection industry, homeowners or buyers in requiring mandatory inspections, although some change is required to ensure a better level of service to homeowners.

A majority of industry respondents believed that the benefits of a home inspection are becoming well recognized and that approximately 55 per cent of sales are being inspected. This is expected to rise as new standards are implemented and the industry becomes self-regulating. The home inspection profession is maturing, and most practitioners entering the field are demonstrating a high level of commitment to their academic training.

In summary, it is widely acknowledged that information revealed during an inspection is helpful to a vast majority of home buyers. The relatively modest cost of an inspection is well worth the investment compared to the risk of paying more than necessary for a home with major problems and then needing to invest in repairs. Purchasers should be encouraged, not legislated, to use inspection services to get valuable information on the condition of their home.

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